

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANTHONY J. FUTIA, JR.,  
Plaintiff,

v.

RAYMOND ROBERTS; DOUGLAS  
O'DONNELL; CHASE BANK, BANK OF  
GREENE COUNTY; WESTCHESTER  
COUNTY CLERK TIMOTHY C. IDONI; and  
SSA COMMISSIONER KILOLO KIJAKZI,  
Defendants.  
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**ORDER**

23 CV 1774 (VB)

Copies Mailed/Faxed LC 6/23/2023  
Chambers of Vincent L. Briccetti

On February 2, 2023, plaintiff, proceeding pro se, commenced this action by filing a summons and complaint in Supreme Court, Westchester County. (Doc. #1-1).

On March 1, 2023, defendants Raymond Roberts, Douglas O'Donnell, and Kilolo Kijakazi (collectively, the "Federal Defendants"), removed this action to this Court pursuant to 28 U.S.C. § 1442(a)(1) (the "Federal Officer Removal Statute"). Because the Federal Defendants removed this action pursuant to the Federal Officer Removal Statute, they were not required to obtain the other defendants' consent prior to removal. See Castrillo v. City of New York, 19 F. Supp. 2d 174, 175 (S.D.N.Y. 1998) (removal under Federal Officer Removal Statute is not "defeated by the presence and lack of consent to removal of co-defendants").

On March 8, 2023, the Federal Defendants moved to dismiss. (Doc. #5). On April 12, 2023, defendant Timothy C. Idoni moved to dismiss. (Doc. #22). On April 13, 2023, defendant Chase Bank moved to dismiss. (Doc. #28).

To date, defendant Bank of Greene County has not filed a notice of appearance or a response to the complaint in this Court. However, on February 17, 2023, Bank of Greene County filed an answer to plaintiff's complaint in Supreme Court, Westchester County. (See Futia v. IRS,

No. 50064/2023 (N.Y. Sup. Ct. Westchester Cnty.), Doc. #9). And on March 1, 2023, the Federal Defendants filed a notice of removal on the docket in Supreme Court, Westchester County, and thus provided notice to Bank of Greene County about removal to this Court. (See id., Docs. ##11–12).

By Orders dated April 25, 2023 (Doc. #33), and June 15, 2023 (Doc. #38), the Court construed plaintiff’s filings entitled “Jurisdiction Challenge” dated March 29, 2023 (Doc. #12), and June 15, 2023 (Doc. #37), as motions to remand and denied the motions. Further, in the Order dated June 15, 2023, the Court warned plaintiff that it could impose sanctions if he continued making frivolous filings. (Id.).

On June 20, 2023, plaintiff filed an affidavit of default requesting that the Court enter default judgment against Chase Bank for failure to answer the complaint. (Doc. #39).

Accordingly, it is hereby ORDERED:

1. Chase Bank timely moved to dismiss this action on April 13, 2023, making plaintiff’s request to enter default judgment against this defendant frivolous. Accordingly, plaintiff’s request that the Court enter default judgment against Chase Bank is DENIED. (Doc. #39).
2. By June 30, 2023, counsel for the Federal Defendants is directed to serve this Order on counsel for Bank of Greene County and file proof of service on the docket.
3. By July 7, 2023, counsel for Bank of Greene County is directed to (i) file a notice of appearance on the docket in this Court, and (ii) refile its answer to the complaint on the docket in this Court.
4. As directed in the Court’s Order dated June 15, 2023, plaintiff is again reminded of the following: **The Court has neither the time nor the inclination to review plaintiff’s**

**repetitive and/or frivolous submissions. Plaintiff is warned that should such conduct continue, the Court will impose appropriate sanctions under its inherent authority or under Rule 11(c) of the Federal Rules of Civil Procedure.**

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444 -45 (1962).

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

Dated: June 23, 2023  
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti  
United States District Judge